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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,047	04/11/2001	Seth D. Rose	AP31409-B - 072448.0318	2382

29540 7590 12/15/2005

PITNEY HARDIN LLP  
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NEW YORK, NY 10036-7311

EXAMINER
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GOLLAMUDI, SHARMILA S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/833,047

Applicant(s)

ROSE ET AL.

Examiner

Sharmila S. Gollamudi

Art Unit

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/3/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) 4-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/3/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

Receipt of Amendments/Remarks and Information Disclosure Statement filed 12/3/05 is acknowledged. Claims 1, 3, 14, and 16 are pending. Claims 2 and 15 stand cancelled. Claims 4-13 stand withdrawn as being directed to a nonelected invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

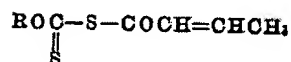
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Akiya et al (Synthetic compounds active against Salmonella dysentery group bacilli, Japanese Journal of Experimental Medicine, 1956, 26, 91-112).**

Akiya discloses the compound 2-Butenethioic acid, S-(4-methylphenyl) ester with formula  $\text{MePhS-CO-CH=CH=Me}$  wherein X= 4-methylphenyl and y=1. Note that 4-methylphenyl is a known disfectant and thus reads on instantly claimed X and Y=1.

**Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Craig et al (2,696,496).**

Craig discloses a S-Crotonyl alklyxanthates. The xanthates have the formula



The S-crotonyl ethylxanthate is made by reacting crotonyl chloride with sodium ethylxanthate. See column 1. Note that alkali metal xanthates (sodium ethylxanthate) are

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used as fungicides, herbicides, and insecticides and thus satisfies instantly claimed X. Further,  $y=1$ .

**Claims 1, 3, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 60115560.**

JP discloses a fungicide/germicide 3,4-dichlorobenzyl thioesters. Specifically, JP disclose 2-Butenethioic acid, S-[3,4-dichlorophenyl) methyl ester wherein  $y=1$ . JP also discloses 2,4 Hexadienethioic acid, S-[(3,4-dichlorophenyl)methyl ester wherein  $y=2$ . See abstract with formula. JP discloses reacting 3,4-dichlorobenzyl mercaptan with the acid of Formula I to form the product wherein 3,4-dichlorobenzyl mercaptan is the active constituent, which is a germicide and thus satisfies instantly claimed X. Note that 3,4-dichlorobenzyl is also a known antiseptic. Thus, 3,4-dichlorobenzyl satisfies the instantly claimed X.

**Claims 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 69010774 (entire document).**

JP discloses the compound pentachlorothiophenylsorbate wherein X= pentachlorothiophenol and  $Y=2$ . Sorboyl chloride is reacted to alkali salts of pentachlorothiophenol. It should be noted that pentachlorothiophenol is effective in controlling mildew and thus reads on instantly claimed fungicide.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

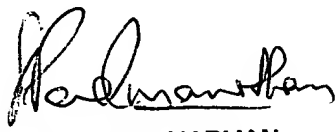
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is 571-272-0614. The examiner can normally be reached on M-F (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER

Sharmila S. Gollamudi  
Examiner  
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